

MI Child Support Formula - RE: Comment on ADM 2003 22:10

From: "Tony Bradley" <tony@tonybradley.com>
To: <mcsf@courts.mi.gov>
Date: 6/13/2003 1:53 PM
Subject: RE: Comment on ADM 2003 22:10

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I wanted to submit comment on the change to calculation of joint economic responsibility.

Although I understand and generally agree with the reasoning behind the modifications, I object to the presumption that an "overnight" is a fair or adequate consideration to determine parenting time.

As an example, we currently have 152 overnights qualifying us for joint economic responsibility. According to this formula, we have the children 'in our custody' for 42% of the year.

However, those overnights don't take into consideration that we have the children in our physical custody 286 *days* a year. Not just a portion of their day but their nearly their entire waking hours. They are with us 78% of the year's days! It is us who is responsible for school drop-offs, pick-ups, conferences, communications, school lunches, play dates, snacks during the day, daycare arrangements, dental appointments, doctor appointments and physicals, haircuts, homework, extra curricular activities (class fees, equipment, transportation to and from every single week), as well as all of the children's needs while they are awake during the summer, school vacations, snow days, sick days, teacher in-service days, etc. We are required to have full wardrobes for three children for all seasons in order to meet situations that arise during a typical day such as snow gear, rain gear, swimming gear, changes of clothing, bedding, etc. We must have bedrooms, beds, etc for all the children, all of their toys and school supplies, books and gifts. All of the children's day-to-day functions are provided by us almost every day of the year. At the end of the day, they go to their mother's house where they go to sleep and wake up to return to our house. While she is responsible for providing them a bed, heat while they sleep, pajamas to wear, etc, this is just a small drop in the bucket compared with what we provide. If we had the children sleep here the number of nights they lived here during the day, we would have sole physical custody and would be receiving child support! There MUST be some 'middle ground' that takes into consideration that solely sleeping at a house is not necessarily the majority of the financial burden of caring for a child.

If it is truly believed that all hours spent with a child - awake or asleep, day or night - use equal resources (a notion that only a non-parent would agree with), then at very least to be fair and equitable, the SER should be based on percentage of hours, not percentage of overnights. In our particular case, the percentage of hours we spend with the children is 57% - a direct inverse to the percentage of overnights. If our SER were based on hours, rather than overnights, we would be at a break even and would have hundreds of badly-needed dollars back in our pockets going toward the children who spend their days with us!

As it stands, we continue to pay a significant amount of child support based on the SER currently in place, even though we have a much larger percentage of expenses compared to the disparity in income. But because we do not have the children sleeping under our roof, that is not taken into consideration. Because we can not possibly support these kids twice, clearly paying 'double jeopardy', we have resorted to cutting costs at all points. We have asked the children's nighttime parent to feed them dinner at night, breakfast in the morning and send them with lunches. We have had to truly lower their standard of living in order to continue paying child support AND share custody. This isn't how the SER is supposed to work! Now the children spend their nights rushing around trying to get dinner, go to bed later as a result, are woken earlier in order to be fed prior to coming to our house and generally do not thrive because we feel financially forced to throw that burden at their nighttime parent. It isn't in their best interest but we can't afford otherwise since we are paying child support, albeit reduced.

Based on the new cubing formula, even at 152 overnights, the amount of child support we should pay will go up drastically. We will no longer be able to keep custody of the children if this happens! What an injustice! But it is already an injustice that we are being forced to pay for child support for children who we truly support all day, every day. Paying even more will not be possible for us. Unfortunately the children will suffer again at the hands of the system. They will be forced into their mother's full time custody which means daycare and no school involvement, another change of school system, and yet another huge drop in standard of living. We can not financially afford to do best for the children! This flies in the face of the FOC! The system is supposed to work to provide the children with a stable consistent standard of living. In our case, it hasn't even remotely provided this. Every step of the way the system has gotten in the way of our attempts to provide just that.

We have, in the past, contacted lawyers and our referee about the possibility of a special circumstances deviation and have received *extremely* negative responses. The new deviation changes will mean we are even less likely to be awarded a special circumstances adjustment. I feel so helpless about meeting the best needs of the children because the formula does not take into consideration cases where the children spend *only* their bedtimes in one parent's home and all of their daytime hours with the other parent. We even attempted to get court cooperation to force the nighttime parent to pay for some of these expenses (since the formula is set up to presume that she will pay for their daytime expenses on nights she has them) but again we were turned away and told, in no uncertain terms, that it just will not happen.

Thank you for hearing my frustration and while I don't expect it will be used to modify, I hope situations like ours will be taken into special consideration in the future in order to meet the children's best needs regardless of the 'formula'.

Tony Bradley, CISSP, MCSE2k, MCSA, MCP, A+
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